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Dear Club Licensee:

Re: Club License Privileges and Restrictions

It has come to the attention of the Division of Alcoholic Beverage Control (hereinafter "ABC") that club licensees are conducting promotions and other activities in violation of State law. The main source of violations stems from club licensees operating as if they hold plenary retail consumption licenses. However, the privileges that accompany a club license are more limited and different than those of a plenary license. Therefore, this letter will review those practices that are and are not permitted under a club license, as well as update information previously contained in ABC Bulletin 2431-7 and 2468-1.

The Club License

A club license is issued pursuant to the authority set forth in N.J.S.A. 33:1-12(5). That statute provides that the holder of the club license is entitled, subject to rules and regulations (to be discussed later), to sell any alcoholic beverages but only for immediate consumption on the licensed premises and only to bona fide club members and their guests. This means that all alcoholic beverages sold or served by a club licensee **must** be consumed **on** the licensed premises and none may be taken off the licensed premises or licensed portions of the premises. It also means that the only persons who may be served are actual and true members of the non-profit licensed organization and actual and personal guests of such members. No one else may be served. Furthermore, a "club" is defined as an organization, corporation, or association consisting of 60 or more persons operating solely for benevolent, charitable, fraternal, social, religious, recreational, athletic or similar purposes and not for private gain.

Rules and Regulations

In furtherance of the statutory mandate discussed above, the ABC has promulgated rules and regulations pertaining to club licenses. The specific regulations governing club licenses are found in Subchapter 8 of Chapter 2, Title 13 of the New Jersey Administrative Code. A reprint of the provisions of that subchapter (cited as N.J.A.C. 13:2-8.1 to 13:2-8.14) is attached to this letter for your continued

2reference. Please note, however, that there are also many other regulatory provisions that govern the conduct of all licensees. The discussion herein is limited to those provisions that are specifically directed at club licensees.

Please note carefully the definitions in N.J.A.C. 13:2-8.1. They are very specific and are to be very strictly followed. To be considered a valid club member, a person must be admitted to full voting membership in a manner prescribed by the bylaws of the club, maintained in good standing on a membership list with address included and admitted to membership no sooner than 3 days after filing an application. Thus, persons holding limited, auxiliary or social memberships, which do not include equal rights with regular members, shall not be deemed to be club members. The practice, which has been observed, where a person purportedly acquires a membership "at the door" or for "one day," or for the apparent purpose of granting to that person the authority to purchase alcoholic beverages, does not confer a valid club membership.

With respect to the conduct of affairs and gatherings on the licensed premises which are sponsored by non-club members the following should be carefully understood and noted. In most situations where the club rents a portion of its licensed facility to a group for the conduct of a banquet or affair, the club cannot sell alcoholic beverages to that group. The group is not a club member, even if some persons in that group may be members of the club. In those situations, the club rents the facilities and may sell food and non-alcoholic beverages to the group as well as require the hiring of club members as bartenders or waitresses to dispense alcoholic beverages and other items. The group renting the facility must bring in its own alcoholic beverages, which cannot be purchased from the club licensee.

If the group is involved in selling alcoholic beverages to those who attend, either by means of its own cash bar or through a ticket price or subscription which includes alcoholic beverages, that group must acquire a social affair permit under N.J.A.C. 13:2-5.1. The club has a responsibility to insure that a social affair permit is obtained in those situations because a failure to properly have the permit would result in a charge against the club licensee for allowing unlawful alcoholic beverage activity on its licensed premises. Examples of these two situations can be shown as follows: 1) The Rotary Club of a community utilizes a club licensed premises for its regular monthly meetings. At those meetings the only persons in attendance for the Rotary are Rotary members and specially invited guests. The club can rent the facilities and sell food to the Rotary for the luncheon. If the Rotary desires alcoholic beverages, they must bring in their own to be served and consumed by the attendees at the monthly meeting. 2) The Rotary rents the facilities for the purposes of having a function at which members of the general public are invited to attend at a specified ticket price which includes the availability of alcoholic beverages. In this case, the Rotary would also have to acquire a social affair permit and not acquire its alcoholic beverages from the club licensee.

Furthermore, the club must be able to produce on demand a true record of all scheduled affairs to be held on the club premises and attended by non-members under N.J.A.C. 13:2-8.8(b). These records can serve to keep the club aware of who is using the club facilities and the purpose of such affair. Copies of all social affair permits issued for the premises should also be retained. No more than 12 social affair permits can be issued annually to an applicant and no more than 25

permits can be issued for a premises during a calendar year. Failure to keep true records or produce them on demand by authorized enforcement authorities constitutes a violation of these regulations.

In defining who is a guest of a club member, the regulations clearly require that the "guest" be someone expressly invited to the licensed premises and sponsored by a club member. One club member can have as his guests no more than 9 individuals. However, this does not mean that the club can allocate the first 9 non-members who walk into the club premises to a particular member and the next 9 to a second member. The only waiver of the 9 guests limit occurs when a member utilizes a portion of the licensed premises for a private party he/she is sponsoring for an immediate family member, such as a spouse, child, parent, brother or sister. These situations most often represent functions such as weddings, anniversaries, confirmations, bar or bat mitzvahs or birthdays.

The fact that specific provisions of Subchapter 8 are mentioned, and not others, does not mean that the other provisions are less important. All are equally important and pertinent and are to be strictly followed. As a club licensee, you are charged with having knowledge of all regulatory requirements.

Other Rules

As mentioned above, there are also other rules and regulations which govern club licensees in addition to Subchapter 8. A club licensee, like any other licensee, may not serve actually or apparently intoxicated persons or underaged persons; no alcoholic beverages may be sold under their cost from the wholesaler; you may purchase your alcohol only from licensed wholesalers; no "2-for-1" specials may be offered; gambling devices and video card games are not permitted on your licensed premises; and you may not allow members to purchase quantities of alcoholic beverages through you (package goods), such as at Christmas time, unless it is all to be consumed on your licensed premises at a member's private party (wedding, etc.). Furthermore, club licensees must adhere to all local ordinances, including the restriction of service of alcohol only during those days and hours permitted.

Another issue which may cause problems for club licensees centers on gambling events and other games of chance. The included activities are typically referred to as "Armchair Races," "Casino Nights" or "Monte Carlo Nights." A club licensee who intends to organize such an event must apply for a special permit from the Legalized Games of Chance Control Commission ("LGCCC"). It is important to note that such an event may only include bona fide club members and their guests as defined above if alcoholic beverages are to be sold, unless the club or other sponsor of the event obtains a social affair permit from ABC. Again, please note that the non-member group must provide their own alcohol and cannot purchase alcohol from the licensee. Special permits from the LGCCC and social affair permits from ABC may only be obtained by qualified, not-for-profit organizations, and such events must be conducted in conformance with the conditions contained in the permits.

Summary

Because the scope of a club license is very limited, the holder of such license must take extra steps to stay within the limitations discussed above and otherwise contained in rules and regulations. The Division intends to strictly enforce those rules and regulations.

It is our hope, however, that as a club licensee you will be extremely careful to abide by the rules so that disciplinary action will not be necessary. We suggest that the officers, directors, trustees and anyone else responsible for operating the alcoholic beverage service for your club read and become familiar with the content of this letter (which is by no means all-inclusive) and the rules and regulations of this Division (including the ABC Handbook for Retail Licensees).

If anyone has any specific questions regarding anything in this letter or in the regulations, or in any way pertaining to your license and its privileges, please feel free to contact the Division, preferably by letter. We will be glad to assist you.

With your continuing cooperation, the club license privileges which you hold will remain a source of enjoyment for your members.